

REMARKS

Claims 1-20 are pending in this Application, of which claims 1-18 have been previously withdrawn from consideration. Claims 19 and 20 have been rejected.

At ¶1 of the Office Action, the Examiner rejects claims 19 and 20 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. As suggested by the Examiner, the Applicant amends claim 19 at line 7 to recite “the lateral release assembly” rather than “a lateral release assembly.” This is clearly a typographical error – the claim makes no distinction to suggest two different lateral release assemblies. Further, the claim recitations with regard to “lateral heel assembly” are consistent with the disclosure as describing the same lateral heel assembly. Therefore as the Examiner suggests, this amendment is made for clarity.

At ¶2 of the Office Action, the Examiner rejects claims 19 and 20 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,070,034 (Swenson). The Applicant respectfully traverses this rejection for at least the following reasons.

Claim 19 requires that the lateral release assembly be part of the upper heel assembly.

... wherein the safety binding includes a lower heel assembly attached to the ski and an upper heel assembly coupled to the lower heel assembly and having a lateral release assembly for applying lateral securing pressure to the ski boot . . . (emphasis added).

Thus, claim 19 recites that the upper heel assembly (i) be coupled to the lower heel assembly and (ii) has a lateral release assembly. Swenson does not teach or suggest an upper heel assembly that has a lateral release assembly.

On page 3 of the Office Action, the Examiner identifies reference numbers 29, 30, 31, 32 and 33 of figure 4 in Swenson as the lateral release assembly of claim 19. The Examiner further identifies reference numbers 18-21 of figure 6 in Swenson as the upper heel assembly of claim 19. Thus, the lateral release assembly of Swenson is not part of the upper heel assembly of Swenson, as required by claim 19. In fact, they are shown as separate, independent components of the Swenson adjustable release binding in figure 1 and figure 2. Since Swenson does not teach or suggest all of the limitations of claim 19, the rejection is improper and should be

withdrawn. Since claim 20 depends from allowable claim 19, that claim should also be allowable.

Further, claim 19 recites a tongue component and a lateral release assembly as two separate components, i.e.,

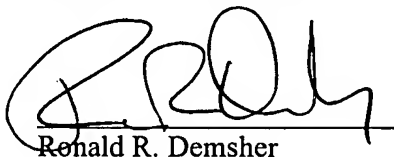
. . . a tongue component having a first end and a second end, the first end being fixedly attached to the lateral release assembly . . .

In other words, claim 19 recites one component (a tongue component) that is attached to another component (a lateral release assembly). As described above, the Examiner identifies reference numbers 29, 30, 31, 32 and 33 of figure 4 in Swenson as the lateral release assembly of claim 19. The Examiner also identifies reference number 31 as the tongue component of claim 19. However, reference number 31 is a constituent of what the Examiner refers to as the lateral release assembly, and not a component separate from the lateral release assembly, as required by claim 19. For this additional reason, Swenson does not teach or suggest all of the limitations of claim 19, so the rejection is improper and should be withdrawn. Since claim 20 depends from allowable claim 19, claim 20 should also be allowable.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Respectfully submitted,

Dated: January 4, 2007



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